

House Bill 607

By: Representative Lewis of the 15th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the excise tax on the furnishing for value to the public of any rooms, lodgings, or
3 accommodations, so as to change certain provisions regarding the levy and collection of such
4 tax; to provide authorization with certain conditions for certain counties and municipalities
5 to levy such tax; to change certain provisions authorizing certain counties and municipalities
6 to levy such tax under certain conditions; to provide for requirements and limitations with
7 respect thereto; to provide for related matters; to provide an effective date; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 3 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to the
12 excise tax on the furnishing for value to the public of any rooms, lodgings, or
13 accommodations, is amended by revising paragraphs (1) and (2) of subsection (a) of Code
14 Section 48-13-51, relating to the levy and collection of certain excise taxes, as follows:

15 "(a)(1)(A) The governing authority of each municipality in this state may levy and
16 collect an excise tax upon the furnishing for value to the public of any room or rooms,
17 lodgings, or accommodations furnished by any person or legal entity licensed by, or
18 required to pay business or occupation taxes to, the municipality for operating a hotel,
19 motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which
20 rooms, lodgings, or accommodations are regularly furnished for value. Within the
21 territorial limits of the special district located within the county, each county in this
22 state may levy and collect an excise tax upon the furnishing for value to the public of
23 any room or rooms, lodgings, or accommodations furnished by any person or legal
24 entity licensed by, or required to pay business or occupation taxes to, the county for
25 operating within the special district a hotel, motel, inn, lodge, tourist camp, tourist
26 cabin, campground, or any other place in which rooms, lodgings, or accommodations

1 are regularly furnished for value. The provisions of this Code section shall control over
2 the provisions of any local ordinance or resolution to the contrary enacted pursuant to
3 Code Section 48-13-53 and in effect prior to July 1, 1998. Any such ordinance shall
4 not be deemed repealed by this Code section but shall be administered in conformity
5 with this Code section.

6 (B)(i) The excise tax shall be imposed on any person or legal entity licensed by or
7 required to pay a business or occupation tax to the governing authority imposing the
8 tax for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground,
9 or any other place in which rooms, lodgings, or accommodations are regularly
10 furnished for value and shall apply to the furnishing for value of any room, lodging,
11 or accommodation. Every person or entity subject to a tax levied as provided in this
12 Code section shall, except as provided in this Code section, be liable for the tax at the
13 applicable rate on the lodging charges actually collected or, if the amount of taxes
14 collected from the hotel or motel guest is in excess of the total amount that should
15 have been collected, the total amount actually collected must be remitted.

16 (ii) Any tax levied as provided in this Code section is also imposed upon every
17 person or entity who is a hotel or motel guest and who receives a room, lodging, or
18 accommodation that is subject to the tax levied under this Code section. Every such
19 guest subject to the tax levied under this Code section shall pay the tax to the person
20 or entity providing the room, lodging, or accommodation. The tax shall be a debt of
21 the person obtaining the room, lodging, or accommodation to the person or entity
22 providing such room, lodging, or accommodation until it is paid and shall be
23 recoverable at law by the person or entity providing such room, lodging, or
24 accommodation in the same manner as authorized for the recovery of other debts.
25 The person or entity collecting the tax from the hotel or motel guest shall remit the tax
26 to the governing authority imposing the tax, and the tax remitted shall be a credit
27 against the tax imposed by division (i) of this subparagraph on the person or entity
28 providing the room, lodging, or accommodation.

29 (C)(i) The tax authorized by this Code section shall not apply to charges made for
30 any rooms, lodgings, or accommodations provided to any persons who certify that
31 they are staying in such room, lodging, or accommodation as a result of the
32 destruction of their home or residence by fire or other casualty. The tax authorized
33 by this Code section shall apply to the fees or charges for any rooms, lodgings, or
34 accommodations during the first ten days of continuous occupancy and shall not apply
35 to charges imposed for any continuous occupancy thereafter. The tax authorized by
36 this Code section shall not apply to charges made for the use of meeting rooms and

1 other such facilities or to any rooms, lodgings, or accommodations provided without
2 charge.

3 (ii) The tax authorized by this Code section shall not apply to the charges for any
4 rooms, lodgings, or accommodations furnished for a period of one or more days for
5 use by Georgia state or local governmental officials or employees when traveling on
6 official business. Notwithstanding the availability of any other means of identifying
7 the person as a state or local government official or employee, whenever a person
8 pays for any rooms, lodgings, or accommodations with a state or local government
9 credit or debit card, such rooms, lodgings, or accommodations shall be deemed to
10 have been furnished for use by a Georgia state or local government official or
11 employee traveling on official business for purposes of the exemption provided by
12 this division.

13 (D) Except as provided in paragraphs (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5),
14 (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), ~~and (5.3)~~, and (5.4)
15 of this subsection, no tax levied pursuant to this Code section shall be levied or
16 collected at a rate exceeding 3 percent of the charge to the public for the furnishings.

17 (2) A county or municipality levying a tax as provided in paragraph (1) of this subsection
18 shall in each fiscal year beginning on or after July 1, 1987, expend for the purpose of
19 promoting tourism, conventions, and trade shows a percentage of the total taxes collected
20 under this Code section which is not less than the percentage of such tax collections
21 expended for such purposes during the immediately preceding fiscal year. In addition,
22 if during such immediately preceding fiscal year any portion of such tax receipts was
23 expended for such purposes through a grant to or a contract or contracts with the state,
24 a department of state government, a state authority, or a private sector nonprofit
25 organization, then in each fiscal year beginning on or after July 1, 1987, at least the same
26 percentage shall be expended through a contract or contracts with one or more such
27 entities for the purpose of promoting tourism, conventions, and trade shows. The
28 expenditure requirements of this paragraph shall cease to apply to a county or
29 municipality which levies a tax at a rate in excess of 3 percent, as authorized under
30 paragraphs (2.1), (3), (2.2), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3),
31 (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), ~~and (5.3)~~, and (5.4) of this subsection; and in
32 such case the expenditure requirements of such paragraph of this subsection pursuant to
33 which such tax is levied shall apply instead."

34 SECTION 2.

35 Said article is further amended in subsection (a) of Code Section 48-13-51, relating to the
36 levy and collection of certain excise taxes, by adding a new paragraph to read as follows:

1 "(5.4)(A) Notwithstanding any other provision of this subsection, a county, within the
2 territorial limits of the special district located within the county, or municipality may
3 levy a tax under this Code section at a rate of 8 percent. A county or municipality
4 levying a tax pursuant to this paragraph shall expend, in each fiscal year during which
5 the tax is collected under this paragraph, an amount equal to at least 43 1/3 percent of
6 the total taxes collected at the rate of 8 percent for the purpose of:

7 (i) Promoting tourism, conventions, and trade shows;

8 (ii) Supporting a facility owned or operated by a state authority for convention and
9 trade show purposes or any other similar or related purposes;

10 (iii) Supporting a facility owned or operated by a local authority or local government
11 for convention and trade show purposes or any other similar or related purposes if a
12 written agreement to provide such support was in effect on January 1, 1987, and if
13 such facility is substantially completed and in operation prior to July 1, 1987;

14 (iv) Supporting a facility owned or operated by a local government or local authority
15 for convention and trade show purposes or any other similar or related purposes if
16 construction of such facility is funded or was funded prior to July 1, 1990, in whole
17 or in part by a grant of state funds or is funded on or after July 1, 1990, in whole or
18 substantially by an appropriation of state funds;

19 (v) Supporting a facility owned by a local government or local authority for
20 convention and trade show purposes and any other similar or related purposes if
21 construction of such facility is substantially funded or was substantially funded on or
22 after February 28, 1985, by a special county 1 percent sales and use tax authorized by
23 Article 3 of Chapter 8 of this title, as amended, and such facility was substantially
24 completed and in operation prior to December 31, 1993; or

25 (vi) Some combination of such purposes.

26 Amounts so expended shall be expended only through a contract or contracts with the
27 state, a department of state government, a state authority, a convention and visitors
28 bureau authority created by local Act of the General Assembly for a municipality, or
29 a private sector nonprofit organization or through a contract or contracts with some
30 combination of such entities, except that amounts expended for purposes (iii) and (iv)
31 of this subparagraph may be so expended in any otherwise lawful manner.

32 (B) In addition to the required expended amounts pursuant to subparagraph (A) of this
33 paragraph, a county or municipality levying a tax pursuant to subparagraph (A) of this
34 paragraph shall further expend, in each fiscal year during which the tax is collected
35 under subparagraph (A) of this paragraph, an amount equal to at least 1 percent of the
36 total taxes collected at the rate of 8 percent for the purpose of supporting a museum of
37 aviation and aviation hall of fame or an amount equal to at least 16 2/3 percent of the

total taxes collected at the rate of 8 percent for the purpose of construction or expansion of:

(i) A facility owned or operated by a state authority for convention and trade show purposes or any other similar or related purposes;

(ii) A facility owned or operated by a local authority or local government for convention and trade show purposes or any other similar or related purposes if such support is provided to a governmental entity with which the county or municipality levying the tax had a contractual agreement concerning governmental support of a convention and trade show facility in effect on January 1, 1987;

(iii) A facility owned or operated for convention and trade show purposes, visitor welcome center purposes, or any other similar or related purposes by a convention and visitors bureau authority created by local Act of the General Assembly for a municipality;

(iv) A facility owned or operated for convention and trade show purposes or any other similar or related purposes by a coliseum and exhibit hall authority created by local Act of the General Assembly for a county and one or more municipalities therein;

(v) A facility owned by a local government or local authority for convention and trade show purposes or any other similar or related purposes if construction of such facility is substantially funded or was substantially funded on or after February 28, 1985, by a special county 1 percent sales and use tax authorized by Article 3 of Chapter 8 of this title, as amended, and such facility was substantially completed and in operation prior to December 31, 1993;

(vi) A system of bicycle or pedestrian trails or walkways or both connecting a historic district within the levying county or municipality and surrounding areas if not later than December 1, 1993, the county or municipality adopted ordinances, resolutions, or contracts which:

(I) Designate such historic district;

(II) Obligate the county or municipality to provide funds to promote tourism to a historic district owners and business association which qualifies as a private sector nonprofit organization under subparagraph (a)(8)(A) of this Code section and Section 501(c)(6) of the Internal Revenue Code;

(III) Provide a 'comprehensive plan' as provided for in Chapters 70 and 71 of Title 36;

(IV) Provide a transportation plan as a component of such comprehensive plan; and

(V) Provide a recreation plan which is designed to identify recreation needs through the year 2000 and which includes provisions for such system of trails or walkways

1 or both; provided, however, that the authority to expend funds for such system of
2 trails or walkways or both shall expire when all capital costs of the initial
3 acquisition, construction, and development of such system as identified in the
4 relevant plan have been paid and in no event later than July 1, 2002.

5 For this purpose, construction and expansion shall include acquisition and
6 development; or

7 (vii) A system of bicycle or pedestrian greenways, trails, walkways, or any
8 combination thereof connecting a downtown historic or business district within the
9 levying county or municipality and surrounding areas if not later than December 1,
10 2000, the county or municipality has adopted ordinances, resolutions, or contracts
11 which:

12 (I) Designate such historic or downtown business district;

13 (II) Obligate the county or municipality to provide funds to promote tourism to a
14 downtown business district owners and business association or chamber of
15 commerce which qualify as private sector nonprofit organizations under
16 subparagraph (a)(8)(A) of this Code section and Section 501(c)(6) of the Internal
17 Revenue Code;

18 (III) Provide a 'comprehensive plan' as provided for in Chapters 70 and 71 of Title
19 36;

20 (IV) Provide a transportation plan as a component of such comprehensive plan; and

21 (V) Provide a recreation plan as a component of such comprehensive plan which
22 includes provisions for such system of trails or walkways or both; provided,
23 however, that the authority to expend funds for such system of trails or walkways
24 or both shall expire when all capital costs of the initial acquisition, construction, and
25 development of such system as identified in the relevant plan have been paid and
26 in no event later than July 1, 2025.

27 For this purpose, construction and expansion shall include acquisition and
28 development.

29 Amounts so expended shall be expended only through a contract or contracts with the
30 state, a department of state government, a state authority, a convention and visitors
31 bureau authority created by local Act of the General Assembly for a municipality, or
32 a private sector nonprofit organization or through a contract or contracts with some
33 combination of such entities, except that amounts expended for purposes (vi) and (vii)
34 of this subparagraph may be so expended in any otherwise lawful manner."

SECTION 3.

Said article is further amended by revising paragraphs (6), (9), and (10) of subsection (a) of Code Section 48-13-51, relating to the levy and collection of certain excise taxes, as follows:

"(6) At no time shall a county or municipality levy a tax under more than one paragraph of this subsection. Following the termination of a tax under paragraph (2.1), (2.2), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), ~~or~~ (5.3), or (5.4) of this subsection, any county or municipality which has levied a tax pursuant to paragraph (2.1), (2.2), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), ~~or~~ (5.3), or (5.4) of this subsection shall be authorized to levy a tax in the manner and at the rate authorized by either paragraph (1), paragraph (3), or paragraph (4) of this subsection but shall not thereafter be authorized to again levy a tax under paragraph (2.1), (2.2), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), ~~or~~ (5.3), or (5.4) of this subsection."

"(9)(A) A county or municipality imposing a tax under paragraph (1), (2), (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), ~~or~~ (5.3), or (5.4) of this subsection shall prior to the imposition of the tax, ~~(if the tax is imposed on or after July 1, 1990)~~ and prior to each fiscal year thereafter in which the tax is imposed adopt a budget plan specifying how the expenditure requirements of this Code section will be met. Prior to the adoption of such budget plan, the county or municipality shall obtain from the authorized entity with which it proposes to contract to meet the expenditure requirements of this Code section a budget for expenditures to be made by such organization; and such budget shall be made a part of the county or municipal budget plan.

(B)(i) The determination as to whether a county or municipality has complied with the expenditure requirements of paragraph (2), (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), ~~or~~ (5.3), or (5.4) of this subsection shall be made for each fiscal year beginning on or after July 1, 1987, as of the end of each fiscal year, shall be prominently reflected in the audit required under Code Section 36-81-7, and shall disclose:

(I) The amount of funds expended or contractually committed for expenditure as provided in paragraph (2), (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), ~~or~~ (5.3), or (5.4) of this subsection, whichever is applicable, during the fiscal year;

(II) The amount of tax receipts under this Code section during such fiscal year; and

(III) Expenditures as a percentage of tax receipts.

(ii) A county or municipality contractually expending funds to meet the expenditure requirements of paragraph (2), (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7),

(4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), ~~or~~ (5.3), or (5.4) of this subsection shall require the contracting party to provide audit verification that the contracting party makes use of such funds in conformity with the requirements of this subsection. If the audit required by Code Section 36-81-7 identifies noncompliance with the applicable expenditure requirements of this Code section, such noncompliance shall be reported in accordance with paragraph (2) of subsection (c) of Code Section 36-81-7. The state auditor shall report all instances of noncompliance with this subparagraph noted in the audit report to the Department of Community Affairs upon completion of the report review required by paragraph (2) of subsection (d) of Code Section 36-81-7. The state auditor shall furnish a copy of all documents submitted by the local government or the local government's auditor pertaining to noncompliance with this subparagraph to the Department of Revenue. The Department of Community Affairs shall submit a copy of such documents to the performance review board.

(10) Nothing in this article shall be construed to limit the power of a county or municipality to expend more than the required amounts, or all, of the total taxes collected under this Code section for the purposes described in paragraph (2), (2.1), (2.2), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), (5.2), ~~or~~ (5.3), or (5.4) of this subsection."

SECTION 4.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.